



House of Representatives

General Assembly

File No. 659

January Session, 2013

House Bill No. 5516

House of Representatives, May 1, 2013

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE REMOVAL OF INDIVIDUALS FROM THE STATE CHILD ABUSE AND NEGLECT REGISTRY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17a-101k of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective July 1, 2013*):

3 (a) The Commissioner of Children and Families shall maintain a
4 registry of the commissioner's findings of abuse or neglect of children
5 pursuant to section 17a-101g that conforms to the requirements of this
6 section. The regulations adopted pursuant to subsection [(i)] (j) of this
7 section shall provide for the use of the registry on a twenty-four-hour
8 daily basis to prevent or discover abuse of children and the
9 establishment of a hearing process for any appeal by a person of the
10 commissioner's determination that such person is responsible for the
11 abuse or neglect of a child pursuant to subsection (b) of section 17a-
12 101g. The information contained in the registry and any other
13 information relative to child abuse, wherever located, shall be
14 confidential, subject to such statutes and regulations governing their

15 use and access as shall conform to the requirements of federal law or
16 regulations. Any violation of this section or the regulations adopted by
17 the commissioner under this section shall be punishable by a fine of
18 not more than one thousand dollars or imprisonment for not more
19 than one year.

20 (b) Upon the issuance of a recommended finding that an individual
21 is responsible for abuse or neglect of a child pursuant to subsection (b)
22 of section 17a-101g, the commissioner shall provide notice of the
23 finding, by first class mail, not later than five business days after the
24 issuance of such finding, to the individual who is alleged to be
25 responsible for the abuse or neglect. The notice shall:

26 (1) Contain a short and plain description of the finding that the
27 individual is responsible for the abuse or neglect of a child;

28 (2) Inform the individual of the existence of the registry and of the
29 commissioner's intention to place the individual's name on the registry
30 unless such individual exercises his or her right to appeal the
31 recommended finding as provided in this section;

32 (3) Inform the individual of the potential adverse consequences of
33 being listed on the registry, including, but not limited to, the potential
34 effect on the individual obtaining or retaining employment, licensure
35 or engaging in activities involving direct contact with children and
36 inform the individual of the individual's right to administrative
37 procedures as provided in this section to appeal the finding; and

38 (4) Include a written form for the individual to sign and return,
39 indicating if the individual will invoke the appeal procedures
40 provided in this section.

41 (c) (1) Following a request for appeal, the commissioner or the
42 commissioner's designee shall conduct an internal review of the
43 recommended finding to be completed no later than thirty days after
44 the request for appeal is received by the department. The
45 commissioner or the commissioner's designee shall review all relevant

46 information relating to the recommended finding, to determine
47 whether the recommended finding is factually or legally deficient and
48 ought to be reversed. Prior to the review, the commissioner shall
49 provide the individual access to all relevant documents in the
50 possession of the commissioner regarding the finding of responsibility
51 for abuse or neglect of a child, as provided in section 17a-28.

52 (2) The individual or the individual's representative may submit any
53 documentation that is relevant to a determination of the issue and
54 may, at the discretion of the commissioner or the commissioner's
55 designee, participate in a telephone conference or face-to-face meeting
56 to be conducted for the purpose of gathering additional information
57 that may be relevant to determining whether the recommended
58 finding is factually or legally deficient.

59 (3) If the commissioner or the commissioner's designee, as a result of
60 the prehearing review, determines that the recommended finding of
61 abuse or neglect is factually or legally deficient, the commissioner or
62 the commissioner's designee shall so indicate, in writing, and shall
63 reverse the recommended finding. The commissioner shall send notice
64 to the individual by certified mail of the commissioner's decision to
65 reverse or maintain the finding not later than five business days after
66 the decision is made. If the finding is upheld, the notice shall be made
67 in accordance with section 4-177 and shall notify the individual of the
68 right to request a hearing. The individual may request a hearing not
69 later than thirty days after receipt of the notice. The hearing shall be
70 scheduled not later than thirty days after receipt by the commissioner
71 of the request for a hearing, except for good cause shown by either
72 party.

73 (d) (1) The hearing procedure shall be conducted in accordance with
74 the procedures for contested cases pursuant to sections 4-177 to 4-181a,
75 inclusive.

76 (2) At the hearing, the individual may be represented by legal
77 counsel. The burden of proof shall be on the commissioner to prove
78 that the finding is supported by a fair preponderance of the evidence

79 submitted at the hearing.

80 (3) Not later than thirty days after the conclusion of the hearing, the
81 hearing officer shall issue a written decision to either reverse or uphold
82 the finding. The decision shall contain findings of fact and a conclusion
83 of law on each issue raised at the hearing.

84 (e) Any individual aggrieved by the decision of the hearing officer
85 may appeal the decision in accordance with section 4-183. Such
86 individual may also seek a stay of the adverse decision of the hearing
87 officer in accordance with subsection (f) of section 4-183.

88 (f) Following the issuance of a decision to uphold the finding and
89 absent any stay of that decision issued by the commissioner or the
90 court, the commissioner shall accurately reflect the information
91 concerning the finding in the child abuse and neglect registry
92 maintained pursuant to subsection (a) of this section and shall, in
93 accordance with section 17a-101g, forward to any agency or official the
94 information required to be disclosed pursuant to any provision of the
95 general statutes.

96 (g) Any individual against whom a finding of abuse or neglect was
97 substantiated prior to May 1, 2000, and who has not previously
98 appealed such finding, may appeal such finding as provided in this
99 section.

100 (h) Records containing unsubstantiated findings shall remain
101 sealed, except that such records shall be made available to department
102 employees in the proper discharge of their duties and shall be
103 expunged by the commissioner five years from the completion date of
104 the investigation if no further report is made about the individual
105 subject to the investigation, except that if the department receives more
106 than one report on an individual and each report is unsubstantiated,
107 all reports and information pertaining to the individual shall be
108 expunged by the commissioner five years from the completion date of
109 the most recent investigation.

110 (i) (1) Any individual whose name has been placed on the state child
111 abuse and neglect registry pursuant to this section may file an
112 application with the Department of Children and Families, on such
113 form as the department prescribes, for removal of such individual's
114 name from the registry. The department shall include in such
115 application form a provision that allows the applicant to indicate good
116 cause for removing the applicant's name from the registry. Such good
117 cause shall include, but need not be limited to:

118 (A) The rehabilitation of the applicant, as demonstrated by: (i) The
119 applicant's personal conduct, (ii) the absence of a criminal conviction
120 for conduct related to a family member of the applicant or a child
121 during the five-year period prior to the date of the application, and (iii)
122 the letters in support of the application that are required under
123 subparagraph (D) of this subdivision;

124 (B) The applicant's acceptance of personal responsibility for actions
125 and omissions that resulted in the applicant's name being placed on
126 the registry;

127 (C) A bona fide need for removal of the applicant's name from the
128 registry, such as the applicant's need to obtain or retain employment,
129 licensure or engage in activities involving direct contact with children;
130 and

131 (D) At least two letters in support of the application, each from a
132 person with knowledge of the applicant's successful rehabilitation,
133 such as a licensed physician or mental health professional.

134 (2) Such application may be filed not earlier than five years after the
135 date of the final decision, as defined in section 4-166, that resulted in
136 the placement of the applicant's name on the registry.

137 (3) The Commissioner of Children and Families may approve such
138 application upon finding good cause. Upon approving such
139 application, the commissioner shall accurately reflect the information
140 concerning the finding in the child abuse and neglect registry

141 maintained pursuant to subsection (a) of this section. If the
142 commissioner denies such application, the applicant shall be entitled to
143 a hearing and appeal therefrom in accordance with subsections (d) and
144 (e) of this section.

145 (4) Any applicant whose application is denied after a final decision,
146 as defined in section 4-166, may reapply in accordance with
147 subdivisions (1) and (2) of this subsection, without limitation, not
148 earlier than two years after the date of such final decision, provided
149 such application indicates good cause that has occurred since the date
150 of the final decision.

151 [(i)] (j) Not later than July 1, 2006, the Commissioner of Children
152 and Families shall adopt regulations, in accordance with the provisions
153 of chapter 54, to implement the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2013	17a-101k

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill does not result in a fiscal impact to the Department of Children and Families (DCF). Among other provisions, it restricts determinations of good cause for removal from DCF's child abuse and neglect registry to applicants that have filed a request for removal not earlier than five years after being placed on the registry. As the annual number of requests for removal from the registry are few (there were five in the past year), there are no savings associated with a minimal reduction in requests anticipated due to the bill.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 5516*****AN ACT CONCERNING THE REMOVAL OF INDIVIDUALS FROM THE STATE CHILD ABUSE AND NEGLECT REGISTRY.*****SUMMARY:**

This bill establishes a good cause procedure that people can use to have their names removed from the Department of Children and Families (DCF) child abuse and neglect registry. By law, the registry lists people the DCF commissioner found to be (1) responsible for committing child abuse or neglect and (2) a risk to children's health, safety, or well-being. Currently, there is no process for someone to have his or her name removed from the registry. Companies that perform background checks, licensing agencies, and potential employers have access to information in the registry.

Under the bill, an applicant may file to have his or her name removed no earlier than five years from the date of the final decision that led to the registration.

When the commissioner approves an application, which is on a form she prescribes, she must accurately reflect in the registry the information concerning her "finding" (presumably this means she has decided to remove the applicant's name from it). If she denies the request, the applicant (1) is entitled to both an administrative hearing and subsequent appeal to Superior Court and (2) may re-apply no earlier than two years after the hearing decision if he or she can show good cause since then.

EFFECTIVE DATE: July 1, 2013

GOOD CAUSE

Under the bill, the DCF commissioner may approve an application

to have a name removed from the registry if the applicant can show good cause. At a minimum, this must include:

1. the applicant's rehabilitation, as shown by his or her (a) personal conduct; (b) lack of a criminal conviction related to a family member or a child during the previous five years; and (c) possessing letters of support from at least two people who know of the applicant's successful rehabilitation, such as a physician or mental health professional;
2. the applicant's accepting personal responsibility for any acts or omissions that caused his or her name to be placed on the registry; and
3. a bona fide need for removing the name, such as finding or keeping a job, licensure, or engaging in activities involving direct contact with children.

BACKGROUND

Child Abuse Registry

DCF maintains a child abuse and neglect registry with the names of individuals against whom DCF has investigated and subsequently substantiated child abuse or neglect. With certain exceptions, DCF will not place a name on the registry until the individual exhausts or waives all appeal opportunities. This includes both an internal department review, an administrative review as permitted by the Uniform Administrative Procedure Act, and court challenges.

Access to the registry is limited to duly authorized DCF employees for purposes of obtaining information for child abuse and neglect investigations, background checks, and other uses the law permits. In most cases, the subject of the check must give consent before the information can be released.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 30 Nay 11 (04/12/2013)